

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE  
Criminal Writ Petition No.1806 of 2007

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|------------------------------------------------------------------|-------------|
| Anil Bandu Gorad                                                 | Petitioner  |
| Vs.                                                              |             |
| The Asst. Commissioner of Police<br>& ors.                       | Respondents |
| Mr.Vipin Bidkar for petitioner.<br>Mr.D.P.Adsule, APP for State. |             |

CORAM: B.H.MARLAPALLE, J.

November 1, 2007.

ORAL JUDGMENT:

. This petition impugns the order of externment passed by the Deputy Police Commissioner, Zone-II, Pune City on 13/4/2007 under Section 56(b) of the Bombay Police Act, 1951 ("the Act" for short) and confirmed by the lower Appellate Authority by dismissing the appeal filed under Section 60 of the said Act as per the order dated 19/7/2007. The petitioner has been externed for a period of one year from the territories of Pune District and the order of externment was served on him on him on 13/4/2007.

. Before the impugned order of externment was passed, admittedly the petitioner was served with a show cause notice which was received by him on

13/11/2006. In the said show cause notice it was pointed out that two cognizable and two non-cognizable offences were registered against him with Sahakar Nagar Police Station and three in-camera statements were recorded from 13/2/2006 to 26/4/2006 and these witnesses had stated that on account of fear to their life and property they were not willing to come in the open and complain against the petitioner about his illegal activities. They had described multiple incidents of threats of violence and also physical assaults on them by the petitioner and his gang members.

. The learned counsel for the petitioner has challenged the order of externment mainly on two grounds viz. (a) that in the show cause notice only four CRs were mentioned whereas in the order of externment five CRs have been referred to and thus the petitioner was not put to notice about the fifth CR and, therefore, the order is vitiated and (b) and the CRs filed are pertaining to the offences which are bailable and, therefore, the order of externment is unsustainable and it was not warranted. In support of the first contention he placed reliance on the decision of this Court (Division Bench) in the

case of Isac Santan Fernandes Vs. Shri K.P.Raghuwanshi, Deputy Commissioner of Police [1987 (3) Bom.C.R. 323]. There is no doubt that the impugned order of externment refers to the fifth CR as well which did not find place in the show cause notice received by the petitioner. It would be, therefore, necessary for me to examine whether the impugned order is sustainable on the basis of three in-camera statements and four CRs and it cannot be accepted that only because the petitioner was not put to notice on the fifth CR, the externment order is required to be quashed and set aside.

. Shri Satish Khandare, Deputy Commissioner of Police, Zone-II, Pune City has filed affidavit-in reply and has opposed the petition. He has pointed out that C.R.No.3052 of 2005 was investigated and now the case is pending for trial before the Court concerned and the next date is 26/12/2007. Same is the case in respect of C.R.No.517 of 2005 and the next date is 7/12/2007. The first CR is registered under Section 4(25) of the Arms Act and Section 37(1) read with Section 135 of the Bombay Police Act whereas the second CR was registered for the offences punishable under Sections 324, 323, 504 read with

Section 34 of IPC. The remaining two CRs i.e. C.R.No.61/05 and C.R.No.666/05 are NC cases and the first one was registered on 9/1/2005 whereas the second was registered on 28/3/2005. It is not the case that all the four CRs were in respect of non-cognizable offences.

. Mr.Adsule, the learned APP has placed before me the record and one sealed envelope which contains the statements of the three -in-camera witnesses. These statements were recorded by the Asst. Police Inspector and they have been duly verified by the Asst. Police Commissioner, Swargate Zone, Pune. All these in-camera witnesses have described the attacks faced by them at the hands of the petitioner and his henchmen. They have also stated about the petitioner's activities of extracting money under threats from the traders and have clearly stated that because of the sheer fear of safety and security of their life and property, they would not like to come in the open and file complaint against the petitioner.

. The Appellate Authority in her reasoned order dated 19/7/2007 has considered the record and found

that the externment order was not vitiated on any count. It is not the requirement of law that the order of externment cannot be passed if the offence is registered or bailable. The subjective satisfaction of the externing authority has to be tested on the basis of the material placed before him in the form of in-camera statements as well as the details of the cases registered / pending against the petitioner. In the instant case the material on record fully supports the order of externment and, therefore, there is no case made out to cause interference in the said order.

. In the premises this petition fails and the same is hereby dismissed. Rule discharged.

(B.H.MARL